

#### § 229.4

(2) Rapid transit operations in an urban area that are not connected with the general railroad system of transportation.

(c) Paragraphs (a) and (b) of § 229.125 do not apply to Tier II passenger equipment as defined in § 238.5 of this chapter (*i.e.*, passenger equipment operating at speeds exceeding 125 mph but not exceeding 150 mph).

(d) On or after November 8, 1999, paragraphs (a)(1) and (b)(1) of § 229.141 do not apply to "passenger equipment" as defined in § 238.5 of this chapter, unless such equipment is excluded from the requirements of §§ 238.203 through 238.219, and § 238.223 of this chapter by operation of § 238.201(a)(2) of this chapter.

(e) Paragraphs (a)(2) through (a)(4), and (b)(2) through (b)(4) of § 229.141 do not apply to "passenger equipment" as defined in § 238.5 of this chapter that is placed in service for the first time on or after September 8, 2000, unless such equipment is excluded from the requirements of §§ 238.203 through 238.219, and § 238.223 of this chapter by operation of § 238.201(a)(2) of this chapter.

[54 FR 33229, Aug. 14, 1989, as amended at 64 FR 25659, May 12, 1999]

#### § 229.4 Information collection.

(a) The information collection requirements in this part have been reviewed by the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1980, Public Law 96-511, and have been assigned OMB control number 2130-0004.

(b) The information collection requirements are found in the following sections:

- (1) Section 229.9.
- (2) Section 229.17.
- (3) Section 229.21.
- (4) Section 229.23.
- (5) Section 229.25.
- (6) Section 229.27.
- (7) Section 229.29.
- (8) Section 229.31.
- (9) Section 229.33.
- (10) Section 229.55.
- (11) Section 229.103.
- (12) Section 229.105.
- (13) Section 229.113.
- (14) Section 229.135.

[50 FR 6953, Feb. 19, 1985, as amended at 58 FR 36613, July 8, 1993]

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#### § 229.5 Definitions.

As used in this part—

(a) *Break* means a fracture resulting in complete separation into parts.

(b) *Cab* means that portion of the superstructure designed to be occupied by the crew operating the locomotive.

(c) *Carrier* means *railroad*, as that term is defined below.

*Commuter service* means the type of railroad service described under the heading "Commuter Operations" in 49 CFR part 209, Appendix A.

*Commuter work train* is a non-revenue service train used in the administration and upkeep service of the commuter railroad.

(d) *Control cab locomotive* means a locomotive without propelling motors but with one or more control stands.

(e) *Crack* means a fracture without complete separation into parts, except that castings with shrinkage cracks or hot tears that do not significantly diminish the strength of the member are not considered to be cracked.

(f) *Dead locomotive* means—

(1) A locomotive other than a control cab locomotive that does not have any traction device supplying tractive power; or

(2) A control cab locomotive that has a locked and unoccupied cab.

(g) *Event recorder* means a device, designed to resist tampering, that monitors and records data on train speed, direction of motion, time, distance, throttle position, brake applications and operations (including train brake, independent brake, and, if so equipped, dynamic brake applications and operations) and, where the locomotive is so equipped, cab signal aspect(s), over the most recent 48 hours of operation of the electrical system of the locomotive on which it is installed. A device, designed to resist tampering, that monitors and records the specified data only when the locomotive is in motion shall be deemed to meet this definition provided the device was installed prior to [insert the effective date of the rule] and records the specified data for the last eight hours the locomotive was in motion.

(h) *High voltage* means an electrical potential of more than 150 volts.

(i) *In-service event recorder* means an event recorder that was successfully

tested as prescribed in § 229.25(e) and whose subsequent failure to operate as intended, if any, is not actually known by the railroad operating the locomotive on which it is installed.

(j) *Lite locomotive* means a locomotive or a consist of locomotives not attached to any piece of equipment or attached only to a caboose.

(k) *Locomotive* means a piece of on-track equipment other than hi-rail, specialized maintenance, or other similar equipment—

(1) With one or more propelling motors designed for moving other equipment;

(2) With one or more propelling motors designed to carry freight or passenger traffic or both; or

(3) Without propelling motors but with one or more control stands.

*Modesty lock* means a latch that can be operated in the normal manner only from within the sanitary compartment, that is designed to prevent entry of another person when the sanitary compartment is in use. A modesty lock may be designed to allow deliberate forced entry in the event of an emergency.

(l) *MU locomotive* means a multiple operated electric locomotive described in paragraph (i)(2) or (3) of this section.

*Other short-haul passenger service* means the type of railroad service described under the heading "Other short-haul passenger service" in 49 CFR part 209, Appendix A.

*Potable water* means water that meets the requirements of 40 CFR part 141, the Environmental Protection Agency's Primary Drinking Water Regulations, or water that has been approved for drinking and washing purposes by the pertinent state or local authority having jurisdiction. For purposes of this section, commercially available, bottled drinking water is deemed potable water.

(m) *Powered axle* is an axle equipped with a traction device.

(n) *Railroad* means all forms of non-highway ground transportation that run on rails or electromagnetic guideways, including (1) commuter or other short-haul rail passenger service in a metropolitan or suburban area, and (2) high speed ground transportation systems that connect metropolitan areas,

without regard to whether they use new technologies not associated with traditional railroads. Such term does not include rapid transit operations within an urban area that are not connected to the general railroad system of transportation.

*Sanitary* means lacking any condition in which any significant amount of filth, trash, or human waste is present in such a manner that a reasonable person would believe that the condition might constitute a health hazard; or of strong, persistent, chemical or human waste odors sufficient to deter use of the facility, or give rise to a reasonable concern with respect to exposure to hazardous fumes. Such conditions include, but are not limited to, a toilet bowl filled with human waste, soiled toilet paper, or other products used in the toilet compartment, that are present due to a defective toilet facility that will not flush or otherwise remove the waste; visible human waste residue on the floor or toilet seat that is present due to a toilet facility that overflowed; an accumulation of soiled paper towels or soiled toilet paper on the floor, toilet facility or sink; an accumulation of visible dirt or human waste on the floor, toilet facility, or sink; and strong, persistent chemical or human waste odors in the compartment.

*Sanitation compartment* means an enclosed compartment on a railroad locomotive that contains a toilet facility for employee use.

(o) *Serious injury* means an injury that results in the amputation of any appendage, the loss of sight in an eye, the fracture of a bone, or the confinement in a hospital for a period of more than 24 consecutive hours.

*Switching service* means the classification of railroad freight and passenger cars according to commodity or destination; assembling cars for train movements; changing the position of cars for purposes of loading, unloading, or weighing; placing locomotives and cars for repair or storage; or moving rail equipment in connection with work service that does not constitute a train movement.

*Toilet facility* means a system that automatically or on command of the user removes human waste to a place

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where it is treated, eliminated, or retained such that no solid or non-treated liquid waste is thereafter permitted to be released into the bowl, urinal, or room and that prevents harmful discharges of gases or persistent offensive odors.

*Transfer service* means a freight train that travels between a point of origin and a point of final destination not exceeding 20 miles and that is not performing switching service.

*Unsanitary* means having any condition in which any significant amount of filth, trash, or human waste is present in such a manner that a reasonable person would believe that the condition might constitute a health hazard; or strong, persistent, chemical or human waste odors sufficient to deter use of the facility or to give rise to a reasonable concern with respect to exposure to hazardous fumes. Such conditions include, but are not limited to, a toilet bowl filled with human waste, soiled toilet paper, or other products used in the toilet compartment, that are present due to a defective toilet facility that will not flush or otherwise remove the waste; visible human waste residue on the floor or toilet seat that is present due to a toilet facility that overflowed; an accumulation of soiled paper towels or soiled toilet paper on the floor, toilet facility, or sink; an accumulation of visible dirt or human waste on the floor, toilet facility, or sink; and strong persistent chemical or human waste odors in the compartment.

*Washing system* means a system for use by railroad employees to maintain personal cleanliness that includes a secured sink or basin, water, antibacterial soap, and paper towels; or antibacterial waterless soap and paper towels; or antibacterial moist towelettes and paper towels; or any other combination of suitable antibacterial cleansing agents.

(p) *Electronic air brake* means a brake system controlled by a computer which provides the means for control of the locomotive brakes or train brakes or both.

[45 FR 21109, Mar. 31, 1980, as amended at 54 FR 33229, Aug. 14, 1989; 58 FR 36613, July 8, 1993; 60 FR 27905, May 26, 1995; 66 FR 4192, Jan. 17, 2001; 67 FR 16049, Apr. 4, 2002]

## § 229.7 Prohibited acts.

(a) The Locomotive Inspection Act (45 U.S.C. 22–34) makes it unlawful for any carrier to use or permit to be used on its line any locomotive unless the entire locomotive and its appurtenances—

(1) Are in proper condition and safe to operate in the service to which they are put, without unnecessary peril to life or limb; and

(2) Have been inspected and tested as required by this part.

(b) Any person (an entity of any type covered under 1 U.S.C. 1, including but not limited to the following: a railroad; a manager, supervisor, official, or other employee or agent of a railroad; any owner, manufacturer, lessor, or lessee of railroad equipment, track, or facilities; any independent contractor providing goods or services to a railroad; and any employee of such owner, manufacturer, lessor, lessee, or independent contractor) who violates any requirement of this part or of the Locomotive Inspection Act or causes the violation of any such requirement is subject to a civil penalty of at least \$500 and not more than \$11,000 per violation, except that: Penalties may be assessed against individuals only for willful violations, and, where a grossly negligent violation or a pattern of repeated violations has created an imminent hazard of death or injury to persons, or has caused death or injury, a penalty not to exceed \$22,000 per violation may be assessed. Each day a violation continues shall constitute a separate offense. See appendix B to this part for a statement of agency civil penalty policy.

[45 FR 21109, Mar. 31, 1980, as amended at 53 FR 28601, July 28, 1988; 53 FR 52931, Dec. 29, 1988; 63 FR 11622, Mar. 10, 1998]

## § 229.9 Movement of non-complying locomotives.

(a) Except as provided in paragraphs (b), (c) and § 229.125(h), a locomotive with one or more conditions not in compliance with this part may be moved only as a lite locomotive or a dead locomotive after the carrier has complied with the following:

(1) A qualified person shall determine—